

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

IN RE ATRICURE, INC.  
SECURITIES LITIGATION

Case No. 1:08-cv-867  
(Judge Michael R. Barrett)

**REQUEST FOR ORAL ARGUMENT ON DEFENDANTS'  
MOTION TO DISMISS**

Pursuant to Rule 7.1(B)(2) of the Local Rules for the Southern District of Ohio, defendants AtriCure, Inc. (“AtriCure”), David Drachman, and Julie Piton respectfully request that the Court hear oral argument on Defendants’ Motion to Dismiss the Amended Complaint, currently pending. Defendants’ Motion to Dismiss presents complex legal issues, including, *inter alia*: (1) application of the heightened pleading requirements of both the Private Securities Litigation Reform Act, 15 U.S.C. § 78u-4(b)(2) and the Supreme Court’s decisions in *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009) and *Bell Atlantic v. Twombly*, 550 U.S. 544 (2007); (2) the appropriate treatment of allegations derived from “confidential witnesses”; (3) application of “loss causation” pleadings requirements under Sixth Circuit and Supreme Court precedent; and (4) the significance to this case of the federal government’s exclusive enforcement rights under the Food, Drug & Cosmetics Act, 21 U.S.C. § 301-399. For these reasons, defendants believe that oral argument will be helpful to the Court in ruling upon the Motion to Dismiss.

Respectfully submitted,

DATED: November 23, 2009

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed electronically. Parties may access  
this pleading through the Court's electronic docketing system.

/s/ Steven E. Skwara

